

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Federal-State Joint Board on Universal	)	WC Docket No. 05-337
Service and High-Cost Universal Service	)	CC Docket No. 96-45
Reform	)	

**REPLY COMMENTS OF MINNESOTA INDEPENDENT COALITION**

The following Reply Comments are submitted pursuant to the Public Notice released on May 1, 2007<sup>1</sup> on behalf of the Minnesota Independent Coalition ("MIC"), which includes over eighty rural telephone companies<sup>2</sup> serving rural areas in Minnesota. As further set forth below, the MIC supports the positions set forth in the Initial Comments of the National Telephone Cooperative Association ("NTCA"), and Organization for the Protection and Advancement of Small Telecommunications Companies ("OPASTCO"). The Rural ILECs' unique role in performing carrier-of-last-resort ("COLR") obligations, and the substantial costs that they have incurred to perform those obligations, should be expressly recognized in connection with the long-term reform of high cost universal service.

**1. The Use Of Reverse Auctions Would Be Inappropriate For Rural ILECs.**

For reasons more fully set forth by NTCA and OPASTCO, the use of reverse auctions would be inappropriate for determining eligibility or levels of funding for Rural ILECs.<sup>3</sup>

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<sup>1</sup> Public Notice, FCC 07J-2.

<sup>2</sup> 47 U.S.C. § 153(37).

<sup>3</sup> See NTCA Initial Comments, pp. 3-10; OPASTCO Initial Comments, pp. 12-16.

Reverse auctions would not provide the “specific, predictable, and sufficient” support needed to provide “reasonable comparable” services and rates, as called for in the Act.<sup>4</sup> The long-term, comprehensive reform of high cost universal service funding must also recognize that Rural ILECs perform COLR obligations, which are the foundation of universal service, and the costs of performing these obligations are particularly high in their areas.

In contrast, eligible telecommunications carriers (“ETCs”) do not perform COLR obligations and do not incur the high costs involved in doing so. Rather, the obligations of competitive ETCs are typically subject to significant limitations and qualifications, including provisions that require competitive ETCs to provide service only if reasonably feasible or if service is economically justified.

As a result, it would be completely inappropriate to establish a new mechanism to determine eligibility, or levels of funding, that would allow the high cost funding for Rural ILECs to be transferred, in whole or in substantial part, to a competitive ETC. Whatever the merits of an auction process for two carriers that have the same obligations, having carriers with fundamentally different obligations engaged in a competitive bidding process would be inherently unbalanced and slanted. Accordingly, the Commission should reject the use of any reverse auction involving Rural ILECs.

**2. The Proposed Hypothetical Cost Model Does Not Provide An Appropriate Basis For High Cost Funding For Rural ILECs.**

The MIC also concurs in the Initial Comments of NTCA and OPASTCO that the use of the hypothetical costs is inappropriate for determination of high cost funding levels for

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<sup>4</sup> 47 U.S.C. § 254; NTCA Initial Comments, pp. 7-10; OPASTCO Initial Comments, pp. 12-16.

rural ILECs.<sup>5</sup> The proposed hypothetical cost model is inappropriate for Rural ILECs because the combination of the small size and substantial differences between Rural ILECs can increase the variations between the outputs of a standardized model and the unique characteristics (and resulting costs) of many Rural ILECs. The small size of Rural ILECs will prevent the moderating effect that occurs for larger ILECs (for which areas with costs higher than the results of the model are balanced by areas with costs that are lower than the results of the model). Rather, many Rural ILECs have only areas for which the actual costs are higher than the results of the model.

Further, cost models are based on the premise of the installation of a state-of-the-art network at a single point in time that is designed to serve all existing customers. In contrast, the COLR obligations of Rural ILECs are fulfilled at the times that customer demand arises, and using the technology available at such times. As a result, rural ILECs' actual costs are embedded, are recovered over long periods of time, and reflect the costs of technologies that may no longer be least cost. Nonetheless, these costs have been incurred to fulfill COLR obligations under the fundamental universal service social compact that those costs would be recoverable. The substitution of support based on the costs of a model would be inconsistent with the manner in which the costs are incurred and may violate the basic universal service compact.

Finally, the substitution of hypothetical costs for actual costs has not been shown to be accurate or to be more effective in promoting universal service goals. As a result, the use

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<sup>5</sup> See NTCA Initial Comments, pp. 12-16; OPASTCO Initial Comments, pp. 16-18.

of hypothetical costs would be inappropriate for Rural ILECs who are performing COLR obligations.

### **3. Mandatory Unbundling Is Inappropriate.**

The MIC also agrees with the Initial Comments of NTCA and OPASTCO that mandatory disaggregation is not appropriate for rural ILECs.<sup>6</sup> Mandatory disaggregation reflects an effort to resolve one of the problems arising from providing identical support to Rural ILECs and competitive ETCs. Mandatory disaggregation is intended to limit the support provided to competitive ETCs for providing lower cost customers with service.

However, mandatory disaggregation may well not succeed in addressing this concern. The residence address of a customer may not have a reliable relationship to the location at which service is provided, which determines the costs of providing service. Further, the goal of mandatory disaggregation is better addressed by elimination of the identical support rule.

### **4. High Cost Universal Service Support Should Be Based On An ETC's Own Costs.**

The MIC supports the position of NTCA and OPASTCO that the identical support rule be reconsidered and eliminated.<sup>7</sup> As previously discussed, Rural ILECs incur substantial costs in connection with performing COLR obligations that are not incurred by competitive ETCs. Since the obligations performed by Rural ILECs and competitive ETCs are not the same, there is reason to expect the same costs to be incurred and no compelling policy basis to provide the same level of support. Rather, high cost support provided should be based upon the costs of the carrier providing the services.

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<sup>6</sup> See NTCA Initial Comments, pp. 16-18; OPASTCO Initial Comments, pp. 18-20.

<sup>7</sup> See NTCA Initial Comments, pp. 18-21; OPASTCO Initial Comments, pp. 3-12.

Elimination of the identical support rule is also a more direct and appropriate method to resolve concerns that underlie proposals for reverse auction, the use of hypothetical costs, and mandatory disaggregation. Accordingly, the MIC supports the comments of NTCA and OPASTCO calling for the elimination of the identical support rule.

**5. A Separate Proceeding Is Appropriate To Determine Whether Broadband Access Should Be A Required Service.**

The MIC supports the establishment of a separate proceeding to determine whether broadband access should be a required universal service element.<sup>8</sup> While the MIC believes that the support of broadband service is an appropriate universal service goal,<sup>9</sup> the consideration of this issue raises different questions that may require consideration of both different factors and a different timetable than the reform of the essential high cost universal service funding that is the primary topic of this proceeding. Accordingly, the MIC believes that a separate proceeding is a preferable approach, since the risk of delay of action is a result to be avoided.

**6. Conclusion.**

For the reasons set forth above, the MIC recommends that:

1. Reverse auctions would be inappropriate for rural ILECs and should not be adopted;
2. Hypothetical costs do not provide an appropriate basis for high cost universal service funding for rural ILECs;
3. Mandatory disaggregation of costs is not an appropriate solution for rural ILECs;

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<sup>8</sup> See NTCA Initial Comments, pp. 21-22.

<sup>9</sup> See OPASTCO Initial Comments, pp. 20-25.

4. High cost universal service support should be based upon an ETC's own costs;  
and
5. A separate proceeding should be established to determine whether broadband access should be a required universal service element.

Respectfully submitted,

MINNESOTA INDEPENDENT COALITION

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